

STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS,
DEPARTMENT OF HEALTH,
BOARD OF MEDICAL LICENSURE
AND DISCIPLINE

In the matter of:
Michael I. Miller, D.O.

No. C91-145B

CONSENT ORDER

Pursuant to § 5-37-5.1 of the General Laws of the State of Rhode Island, 1956, as amended, complaints were filed with the Board of Medical Licensure and Discipline (hereinafter referred to as "Board") charging Michael I. Miller, D.O., Respondent, with violations of § 5-37-5.1 of the General Laws of the State of Rhode Island, 1956, as amended. Investigations were conducted by Investigating Committee I, so called, of the Board.

Investigating Committee I reported its evaluations and recommendations to the Board. The report was reviewed by the Board and it recommended further action.

The following constitutes the Investigative Findings with respect to the professional performance of the Respondent:

INVESTIGATIVE FINDINGS

1. The Respondent, practicing as an anesthesiologist, and employees of Dr. Michael I. Miller, Ltd., who were under the direct supervision of the Respondent, at the former Cranston General Hospital, administered endoscopic anesthesia in the absence of a pregnancy test to women between the ages of 13 and 50 contrary to

the rules of the Department of Anesthesia on six occasions between March 14, 1990 and December 12, 1991.

2. The Respondent, practicing as an anesthesiologist, and employees of Dr. Michael I. Miller, Ltd., who were under the direct supervision of the Respondent, at the former Cranston General Hospital, failed to perform a pregnancy test within 30 days prior to the administration of endoscopic anesthesia contrary to the rules of the Department of Anesthesia on 11 occasions between September 5, 1990 and January 28, 1992.

3. The actions of Respondent as cited in paragraphs 1 and 2 above constitute unprofessional conduct in violation of R.I. Gen. Laws § 5-37-5.1(9)(19)(27).

4. The Respondent, practicing as an anesthesiologist, and employees of Dr. Michael I. Miller, Ltd., who were under the direct supervision of the Respondent, at the former Cranston General Hospital, administered endoscopic anesthesia in the absence of documentation of a patient History and Physical performed by the surgeon on five occasions between November 16, 1989 and August 27, 1991.

5. The Respondent, practicing as an anesthesiologist, and employees of Dr. Michael I. Miller, Ltd., who were under the direct supervision of the Respondent, at the former Cranston General Hospital, administered endoscopic anesthesia in the absence of documentation of a patient History and Physical by the surgeon

performed within 30 days of the procedure on 25 occasions between April 27, 1990 and January 28, 1992.

6. The actions of Respondent as cited in paragraphs 4 and 5 above constitute unprofessional conduct in violation of R.I. Gen. Laws §5-37-5.1(9)(19)(27).

7. The Respondent, practicing as an anesthesiologist, and employees of Dr. Michael I. Miller, Ltd., who were under the direct supervision of the Respondent, at the former Cranston General Hospital, administered endoscopic anesthesia in the absence of documentation of performance of requisite pre-operative laboratory work on nine occasions between November 9, 1989 and December 12, 1991.

8. The Respondent, practicing as an anesthesiologist, and employees of Dr. Michael I. Miller, Ltd., who were under the direct supervision of the Respondent, at the former Cranston General Hospital, administered endoscopic anesthesia in the absence of documentation of performance of requisite pre-operative laboratory testing within 30 days of the operative procedure on 33 occasions between April 27, 1990 and January 28, 1992.

9. The actions of Respondent as cited in paragraphs 7 and 8 above constitute unprofessional conduct in violation of R.I. Gen. Laws §5-37-5.1(9)(19)(27).

10. The Board of Medical Licensure and Discipline has charged that the Respondent violated R.I. Gen. Laws § 5-37-

5.1(19)(27)(28) in 10 specific cases involving questions of quality of patient care.

11. The Board of Medical Licensure and Discipline has charged that the Respondent violated R.I. Gen. Laws § 5-37-5.1(19)(27) by administration of anesthesia when anesthesia was not required in 130 cases of sigmoidoscopy between January 3, 1991 and December 31, 1991.

12. The Respondent has denied the findings in paragraph 10 and 11 but recognizes that they are the conclusions of the Investigative Committee of the Board.

The parties agree as follows:

1. The Respondent is a physician licensed and doing business under and by virtue of the Laws of the State of Rhode Island, osteopathic license No. 293. Respondent's mailing address is 130 Stone Ridge Drive, East Greenwich, Rhode Island 02818.

2. Respondent admits to the jurisdiction of the Board and hereby agrees to remain under the jurisdiction of the Board.

3. Respondent has read this Consent Order and understands that it is a proposal of Investigating Committee I of the Board and is subject to the final approval of the Board. This Consent Order is not binding on Respondent until final ratification by the Board.

4. Respondent hereby acknowledges and waives:

(a) the right to appear personally or by counsel or both before the Board;

- (b) the right to produce witnesses and evidence in his behalf at a hearing;
- (c) the right to cross examine witnesses;
- (d) the right to have subpoenas issued by the Board;
- (e) the right to further procedural steps except for those specifically contained herein;
- (f) any and all rights of appeal of this Consent Order;
- (g) any objection to the fact that this Consent Order will be presented to the Board for consideration and review;
- (h) any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;
- (i) any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.

5. The Board specifically waives its right to bring new charges against the Respondent as a result of any new information it obtains from a further review of the patient charts it has already reviewed with regard to this completed investigation.

6. If the Consent Order is not accepted by the Respondent, the Investigating Committee will recommend to the Board that an Administrative Hearing be scheduled with respect to any and all acts of alleged unprofessional conduct. If the Board approves, an Administrative Hearing will be scheduled. A Hearing Committee will be convened for the purpose of conducting the

Administrative Hearing. The composition of the Hearing Committee is described by statute. If the Hearing Committee votes in favor of finding the Respondent guilty of unprofessional conduct as specified in the charges, the Board shall prepare written finding of fact and law in support of said conclusion. If the accused is found not guilty, the Board shall, forthwith, issue an order dismissing the charges.

7. By acceptance of this Consent Order, Respondent agrees not to contest this matter further.

8. This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and by the Board. It shall be published as the Board, in its exercise of its discretion, shall determine.

9. Failure to comply with this Consent Order, when signed and accepted, shall subject the Respondent to further disciplinary action.

10. Respondent voluntarily accepts the Board's finding of unprofessional conduct with a sanction of a three months suspension from practice all of which must be served. A Five Thousand (\$5,000.00) Dollars administrative fee shall be payable within sixty (60) days of the ratification of this Consent Order. Respondent further voluntarily accepts probation for a period of one year and agrees to obtain 25 Continuing Medical Education Credits within one

year of the date of this order. In addition, Respondent agrees to cooperate fully with the Board in its continuing investigations.

Signed this 20th day of December, 1993.

Michael I. Miller, D.O.

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Ratified by the Board of Medical Licensure and Discipline at a meeting held on 12 January, 1993. 4.

Barbara A. DeBuono, M.D., M.P.H.

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M.P.H.

Chairperson

Board of Medical Licensure and
Discipline